

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

BRANCH SPARROW

v.

UNITED STATES OF AMERICA

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:
: CIVIL NO. CCB-16-1307
: Criminal No. CCB-12-0273
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MEMORANDUM

Now pending is Branch Sparrow's motion to vacate sentence under 28 U.S.C. § 2255, as supplemented following the Supreme Court's decision in *United States v. Davis*, 139 S.Ct. 2319 (2019) and the Fourth Circuit's decision in *U.S. v. Simms*, 914 F.3d 229, 233-34 (4th Cir. 2019) (en banc). (ECF Nos. 71, 72, 74, 75 and 81)¹ The government has responded.

Sparrow pled guilty on December 12, 2012, to conspiracy to commit Hobbs Act Robbery in violation of 18 U.S. § 1951(a) (Count One) and use of a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c) (Count Three). He was sentenced to 66 months incarceration on Count One, and 84 months consecutive on Count Three. As the government concedes, Hobbs Act conspiracy no longer qualifies as a crime of violence under either the force clause (*Simms*) or the residual clause (*Davis*). Accordingly, as requested by the government and anticipated in *Davis*, 139 S.Ct. at 2336, both sentences, as well as the 924(c) conviction, will be vacated, and Sparrow will be resentenced. *Dean v. U.S.*, 137 S.Ct. 1170, 1176-77 (2017); *United States v. Hillary*, 106 F.3d 1170, 1172 (4th Cir. 1997).

A separate Order follows.

10/2/19
Date

/s/
Catherine C. Blake
United States District Judge

¹ Sparrow's Motion to Supplement (ECF No. 82) will be granted.